

Guidance Note	Forms and Precedents	Checklists	Other Resources
1. GENERAL OVERVIEW AND INTRODUCTION			
1.1 The legal principles of labour law			
111 Principles of the common law			Important points on the principles of the common law
112 Labour legislation: an introduction	EEA 4 – Income differential statement		Labour legislation snapshot
	EEA 2 – Employment equity report		BCEA 1 – Summary of the BCEA
	Conditions of employment policy		
113 Concurrent remedies: common law principles and legislation			Important points on the principles of the common law
			Breach of contract considerations
			The basics of unfair dismissal
1.2 The constitutional context of labour law			
121 The right to fair labour practices			
122 The development of new rights			
123 Other fundamental rights			

2. THE EMPLOYMENT RELATIONSHIP			
2.1 Start of the employment relationship			
211 Advertising a new post	Job description template		Recruitment process flowchart
	Recruitment policy		Job advertisements considerations
212 Shortlisting and discrimination			Recruitment process flowchart
	Recruitment policy		Shortlisting and interviewing considerations
213 Protecting applicants for employment			
214 The interview process	Recruitment policy		Recruitment process flowchart
215 The applicant's duty to disclose			
216 Appointing a successful applicant	Unsuccessful candidate letter		BCEA 1 – Summary of the BCEA
	Recruitment policy		
	Offer of employment and appointment letter		

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	Conditions of employment policy		
2.2 The contract of employment			
221 The nature of employment			Distinguishing between employees and contractors
222 Employees and independent contractors	Contract of employment		Employee v independent contractor information sheet
	Simple independent contract agreement		Distinguishing between employees and contractors
	Form LRA 7.21 – Request for advisory award on whether a person is an employee		
	Conditions of employment policy		
	Employment contract – Employee		
223 Terms and conditions of employment	Health and safety policy		Drafting the employment contract
	Business conduct and ethics policy		BCEA 1 – Summary of the BCEA
	Conditions of employment policy		
224 Drafting the contract	Job description template		Drafting the employment contract
	Contract of employment		Written particulars of employment information sheet
	Employment contract - wage paid employees		
225 Fixed-term contracts	Fixed term contract		
226 Labour brokers and part time employees	Form LRA 7.21 – Request for advisory award on whether a person is an employee		
227 Restraints of trade	Restraint of trade clause		
	Letter regarding restraint of trade undertakings		
228 Changing terms and conditions of employment	Conditions of employment policy		BCEA 1 – Summary of the BCEA
229 Breach of contract and remedies			

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2.3 Basic conditions of employment			
231 Scope and application of the Basic Conditions of Employment Act			
232 Working hours			Compliance with the BCEA: working hours Leave information sheet
233 Leave	Form UI-2.3 – Application for maternity benefits		Leave compliance
	Form UI-2.4 – Application for adoption benefits		Compliance with the BCEA: working hours
	Form UI 2.2 – Application for illness benefits		
	Leave policy		
	Annual leave clause		
	Payment in lieu of leave clause		
	Sick leave clause		
	Family responsibility leave clause		
	Examination leave clause		
234 Remuneration	Wages register	Employer's garnishee checklist	
	BCEA – Payslip		
	Form LRA 9.1 – Employer's record of employee's earnings, deductions and time worked		
235 The National Minimum Wage Act			
236 Notice of termination	Certificate of service		
237 Other provisions of the Basic Conditions of Employment Act			
238 Variation of basic conditions of employment			
239 Enforcement of the Basic Conditions of Employment Act			
2.4 Unfair labour practices			
241 Nature and scope of the protection against unfair labour practices	Letter of demotion		Unfair labour practice information sheet
242 The provision of benefits			Unfair labour practice information sheet

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243 Unfairness in promotion and demotion	Notice of demotion		Unfair labour practice information sheet
244 Unfair suspension	Letter to request written reasons opposing suspension	Suspension of an employee checklist	Unfair labour practice information sheet
245 Unfair disciplinary sanctions			Unfair labour practice information sheet
246 Unfairness and training			Unfair labour practice information sheet
247 Failure to reinstate			Unfair labour practice information sheet
248 Remedies for unfair labour practices			Unfair labour practice information sheet
2.5 Protected disclosures			
251 Requirements for a protected disclosure			
252 Protection against occupational detriments	Retirement policy		
253 Protected disclosures and unfair labour practices			
254 Protected disclosures and dismissal			
255 Remedies		Remedies	
2.6 Workplace discipline			
261 Maintaining workplace discipline			
262 The disciplinary code	Information technology policy	Drafting a disciplinary code	Levels of disciplinary measures
			Disciplinary procedures information sheet
263 Using informal discipline	Written warning letter	Determining appropriate disciplinary sanctions	Levels of disciplinary measures
264 The appropriate sanction		Determining appropriate disciplinary sanctions	
2.7 Dismissal and resignation			
271 The right not to be unfairly dismissed		Determining whether there was a dismissal	
		The difference between breach of contract and unfair dismissal	
272 Termination of employment			
273 Constructive dismissals	Suggested grievance procedure for the private sector		Constructive dismissals information sheet

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274 Dismissal and maternity leave	Maternity leave policy		
275 Resignation	Resignation policy		
276 Remedies and relief for dismissal and resignation	Exit interview template		
	Staff exit procedures		
	Resignation policy		

3. DISMISSAL			
3.1 The right not to be unfairly dismissed			
311 A fundamental right			
312 Exclusions and interpretation			
313 Lawfulness, fairness and other essential concepts	Application for condonation in respect of unfair dismissal dispute		
3.2 Automatically unfair dismissal			
321 Automatically unfair reasons	Retirement policy		
322 Trade union activity and the exercise of rights			
323 Participation in a protected strike			
324 The refusal by employees to accept a demand			
325 Pregnancy-related reasons			
326 Discrimination and dismissal	HIV/AIDS policy		
327 Dismissals in the context of a transfer			
328 Dismissal and protected disclosures			Things to consider in a disciplinary code
3.3 Dismissal for misconduct			
331 The employer's prerogative to formulate workplace rules		Drafting a disciplinary code	
332 Elements of substantive fairness			Levels of disciplinary measures
			Desertion information sheet
333 Specific offences	Information technology policy		Drunkenness on duty information sheet
	Anti-corruption policy		Training on electronic communications and social media

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	Internet, electric communication and social media policy		
	Social media policy		
	Notice of termination of employment for absenteeism		
	Business conduct and ethics policy		
334 The elements of procedural fairness	LRA 7.19 – Request for pre-dismissal arbitration	Documents required for disciplinary enquiry	How to chair a disciplinary enquiry
	Disciplinary enquiry attendance register		Procedure for formal disciplinary enquiries
	Suggested disciplinary code and procedure		
	Notice of termination of employment		
335 The CCMA guidelines			Evidence rules
336 Aspects of evidence			
			Forms of evidence
			Admissibility of evidence in disciplinary enquiry
			Drunkenness on duty information sheet
			How to chair a disciplinary enquiry
337 The disciplinary enquiry	Notice of suspension	Documents required for disciplinary enquiry	How to chair a disciplinary enquiry
	Notice of disciplinary enquiry		Procedure for formal disciplinary enquiries
	Notice of suspension		
	Disciplinary enquiry attendance register		
338 The decision to dismiss	Disciplinary enquiry attendance register		
	Notice of termination of employment		
3.4 Dismissal for poor work performance			
341 A failure to meet a target	Work performance counselling sheet		

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342 Substantive requirements	Notice to attend poor work performance hearing		
	Work performance counselling sheet		
343 Guiding, mentoring and training	Work performance counselling sheet		
344 Procedural fairness elements	Notice to attend poor work performance hearing	Documents required for disciplinary enquiry	Ill health or injury information sheet
	Work performance counselling sheet		
3.5 Dismissal for ill health			
351 Temporary or permanent ill health			
352 The employer's duty to accommodate	Application for unpaid leave		
353 Pre-dismissal procedure	Letter to obtain doctor's opinion		
3.6 Dismissal for operational requirements			
361 Valid and fair reasons	S189 (3) letter – Notice of contemplating retrenchment		
	Retrenchment policy		
362 The duty to consult			
363 Procedural overview	S189 (3) letter – Notice of contemplating retrenchment		Retrenchment in terms of section 189A
364 Large-scale retrenchments	LRA 7.20 – Request for section 189A operational requirements facilitation		
365 Remedies and relief			
3.7 Transfers as a form of dismissal			
371 Transfer of a business			
372 Second-generation outsourcing			
373 Procedural aspects			
4. COLLECTIVE BARGAINING			
4.1 Trade unions and employers' organisations			
411 Registration and formal requirements	Form LRA 6.1 – Registration as a Trade Union		How to register a trade union
	Form LRA 6.2 – Registration of an employers organisation		

Guidance Note	Forms and Precedents	Checklists	Other Resources
	Form LRA 6.3 – Certificate of registration of a trade union		
	Form LRA 6.4 – Certificate of registration of employers' organisation		
412 Statutory obligations	Form LRA 6.5 – List of members to be kept by a trade union		
	Form LRA 6.6 – List of members to be kept by the employers' organisation		
	Form LRA 6.7 – Number of trade union members		
	Form LRA 6.8 – Number of employers' organisation members		
413 Appointment of administrator and deregistration			
414 Recognition agreements	Recognition agreement		
	Definitions clause		
	Recognition clause		
	Trade union representatives' clause		
	Dispute handling procedure clause		
	Duration and implementation of agreement clause		
	Amendments clause		
	Domicilium clause		
4.2 Freedom of association in collective bargaining			
421 The fundamental right to associate			Freedom of association considerations
			Organisational rights considerations
			Advantages and disadvantages of centralised bargaining
422 Agency shops and closed shops			Organisational rights considerations
4.3 Organisational rights in the workplace			
431 The union's level of representivity			Organisational rights considerations
			Advantages and disadvantages of centralised bargaining

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432 The Labour Relations Act's scheme of organisational rights			
433 Acquiring organisational rights			
4.4 Collective agreements in collective bargaining			
441 The legal framework for collective bargaining and collective agreements	Bargaining council requests extension of collective agreement to non-parties		Collective agreement information sheet
	Form LRA 3.3 – Application for registration of a bargaining council		
	Form LRA 3.15 – Employer's organisation applies for establishment of a statutory council		
442 Disputes about collective agreements			Collective agreement information sheet
443 Terminating a collective agreement			

5. STRIKES

5.1 The right to strike and its limitations			
511 The right to strike and recourse to lock-out	Notice to attend collective disciplinary enquiry		
	First ultimatum in response to unlawful strike action		
	Second ultimatum in response to unlawful strike action		
512 The definition of a strike and a lock-out	Employer's demand for employees to do their normal contractual duties		
	First ultimatum in response to unlawful strike action		
	Second ultimatum in response to unlawful strike action		
513 Substantive limitations			
514 Ballots			
5.2 Procedural requirements for strikes			
521 Referral to conciliation			

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522 The notice requirement	Notice of lockout (offensive)		Determining if a strike is protected or unprotected flowchart
	Notice to Strike		
	Notice of lockout (in defence to a strike)		
5.3 Strike handling			
531 The strike plan	Implementing a strike plan	What to include in a strike diary checklist	
	Strike diary form		
	Form LRA 9.2 – Record of strike, lockout, or protest action		
532 Gathering evidence			
5.4 Other aspects of strikes			
541 Secondary strikes			
542 Picketing	Form LRA 4.1 – Request to establish picketing rules		
543 Protest action			
544 Dismissal of strikers	First ultimatum in response to unlawful strike action		
	Second ultimatum in response to unlawful strike action		
	Employer's demand for employees to do their normal contractual duties		
	Notice to attend collective disciplinary enquiry		
545 Strike violence and union accountability			
546 CCMA interventions			

6. EMPLOYMENT AND TRANSFORMATION STRATEGIES

6.1 Employment Equity, skills development and BBBEE			
611 A summary of the Employment Equity Act	Form EEA 2 - Employment equity report		
612 Skills development	Skills development – staff breakdown	Finding and employing work-seekers for learnerships	
	Workplace skills plan	Setting up a learnership	

Guidance Note	Forms and Precedents	Checklists	Other Resources
613 Tax allowances	Form IT180 – Declaration by employer for the purpose of claiming a deduction for an allowance in respect of a learnership agreement or contract of apprenticeship		
614 Skills development grants	Skills development facilitator appointment letter		
	Workplace skills plan		Department of Higher Education and Training website
	Skills development – staff breakdown		SETA contact details
			List of SETA and SIC – Standard Industrial Codes
6.2 Employment equity and unfair discrimination			
621 Eliminating unfair discrimination	HIV/AIDS policy		
	Retirement policy		
	Maternity policy		
622 Medical and psychological testing	HIV/AIDS policy		
623 Sexual harassment	Sexual harassment policy		
624 Equal conditions of employment for work of equal value			
625 Discrimination disputes and remedies	HIV/AIDS policy		
6.3 Employment equity and fair discrimination			
631 Inherent requirements of the job			
632 Affirmative action measures	Form EEA 1 – Employment Equity Declaration by Worker		
	Form EEA 2 – Employment equity report		
	EEA 3 – Summary of the Employment Equity Act 55 of 1998		
	Form EEA 4 – Income differential statement		
	Form EEA 6 – Compliance order		

Guidance Note	Forms and Precedents	Checklists	Other Resources
	Form EEA 7 – Objection against a compliance order		
	Form EEA 8 – Demographic data		
	Form EEA 9 – Occupational levels		
	Form EEA 11 – Application for an employment equity report		
	Form EEA 13 – Template for employment equity plan		
633 The test for fair affirmative action			

7. DISPUTE RESOLUTION

7.1 The CCMA - an introduction

711 The rights of the CCMA			
712 The functions of the CCMA			

7.2 Conciliation and arbitration

721 The conciliation process	Notice of motion for condonation		Conciliation information sheet
	Form LRA 7.11 – Referring a dispute to the CCMA for conciliation (including con-arb)		
	Form LRA 7.12 – Certificate of outcome of dispute referred to conciliation		
722 Arbitration	Security bond		Evidence rules
	Form LRA 7.13 – Request for arbitration		Forms of evidence
	Form LRA 7.14 form – Notice of objection to arbitration by same commissioner		Guide for witnesses
	Form LRA 7.15 – Application to appoint senior commissioner to arbitrate		
	Form LRA 7.16 – Subpoena		
	Form LRA 7.17 – Referral of cost dispute		
	Form LRA 7.18 – Application to certify CCMA award and writ of execution		

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723 Other CCMA processes	Form LRA 7.11 – Referring a dispute to the CCMA for conciliation (including con-arb)		Con Arb information sheet
	Form LRA 7.20 – Request for section 189A operational requirements facilitation		
	Notice objecting to Con-Arb		
	Form LRA 7.19 – Request for inquiry by arbitrator		
	Form LRA 7.13 – Request for arbitration		
7.3 The CCMA's jurisdiction			
731 The CCMA as a statutory body			
732 Common jurisdictional issues and disputes			
733 Jurisdiction, conciliation and the nature of the dispute			
7.4 CCMA rules and guidelines			
741 The CCMA rules	Form LRA 7.13 – Request for arbitration		
742 Condonation applications	Application for condonation		
743 Postponing CCMA proceedings			
744 Representation at CCMA proceedings			Practice note 2 of 2016
745 Rescission and variation applications	Application for rescission of ruling or arbitration award		
7.5 The Labour Court and its jurisdiction			
751 Introduction to the Labour Court jurisdiction			Practice Manual of the Labour Court of South Africa 2013
752 Concurrent jurisdiction			
753 Statutory and common law remedies			
754 Unfair dismissal disputes	Pre-trial minute		Practice Manual of the Labour Court of South Africa 2013
	Statement of Claim		
	Statement of Response		

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	Form 1 – Application for a case number		
	Notice of Exception		
755 Forum shopping		Breach of contract	
7.6 Reviewing arbitration awards			
761 The grounds for review	Notice of Motion - review application		Practice Manual of the Labour Court of South Africa 2013
	Supplementary Affidavit - review application		
	Founding Affidavit - review application		
	Index to record for review proceedings		
	Supplementary Affidavit - review application		
	Index to pleadings for review proceedings		
762 The test for review			
763 Reviewing private arbitration awards	Index to pleadings for review proceedings		
	Index to record for review proceedings		
	Notice of Motion - review application		
7.7 The Labour Appeal Court			
771 The Labour Appeal Court's status and jurisdiction			
772 The Labour Appeal Court's powers			
7.8 After the Labour Appeal Court			
781 The Supreme Court of Appeal			
782 The Constitutional Court			

8. HEALTH, SAFETY, COMPENSATION AND UNEMPLOYMENT INSURANCE

8.1 Workplace health and safety

811 The Occupational Health and Safety Act			
812 Obligations on employers and employees	Health and safety policy	Checklist for health and safety	

Guidance Note	Forms and Precedents	Checklists	Other Resources
	Delegation of duties to principal section 16(2) appointee letter	First aid and emergency equipment checklist	
	Appointment of health and safety committee chairperson letter		
	Designation as member of health and safety committee letter		
	Designation as health and safety representative letter		
813 Representatives and committees	Designation as member of health and safety committee letter		
	Designation as health and safety representative letter		
	Delegation of duties to principal section 16(2) appointee letter		
	Appointment of health and safety committee chairperson letter		
814 Regulations		First aid and emergency equipment checklist	
		General Safety Regulations checklist	
		Hazardous Chemical Substances Regulations	
		Electrical Machinery Regulations checklist	
		Facility Regulations checklist	
		Asbestos Regulations checklist	
8.2 Mine health and safety			
821 The Mine Health and Safety Act			
822 General obligations on employers	Mine health and safety policy	Types of hazard identification and risk assessments (HIRA)	
	Investigation report for occupational diseases	Mine health and safety training checklist	
	Medical surveillance clause		

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823 Specific functions for specific managers	Appointment letter for a mine manager		
824 Employee's right to refuse to work	Dangerous working places clauses		
825 Enforcement			
8.3 Compensation for occupational injuries and diseases			
831 The right to compensation	W.As.8 – Return of earnings		Return of earnings instruction manual
			Registration and logging in flowchart
			Employees role in reporting an injury to the Fund
			Employer's role in reporting an employee's injury
832 Calculation of compensation and other procedures	W.CL.32 – Declaration by Guardian or Widow or Widower		Employees role in reporting an injury to the Fund
	W.CL.46 – Burial expense account		Employer's role in reporting an employee's injury
833 Limits on compensation			
834 Compensation in terms of the Occupational Diseases in Mines and Works Act			
8.4 Statutory unemployment insurance			
841 Summary of unemployment legislation	UI-8 – Application for Registration (Business)		Form UIF Electronic Declaration Specifications
	UI-8D – Application for Registration (Private Household)		
	UI-19 – Information to be supplied by Employer		
842 Unemployment benefits	UI-6A – Declaration to confirm unemployment status		
843 Illness benefits	UI-2.2 – Application for illness benefits		
844 Maternity and adoption benefits	UI-2.3 – Application for maternity benefits		
	UI-2.4 – Application for adoption benefits		
	Maternity policy		
845 Parental and commissioning parents benefits			

Guidance Note	Forms and Precedents	Checklists	Other Resources
845 Death benefits	UI-2.5 – Application for death benefits: surviving spouse		
	UI-2.6 – Application for death benefits: children		
	UI-2.8 – Proof of banking details		